

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IMMIGRANT LEGAL RESOURCE  
CENTER, et al.,

Plaintiffs,

v.

CHAD F. WOLF, et al.,

Defendants.

Case No. [20-cv-05883-JSW](#)

**NOTICE OF ADDITIONAL  
QUESTIONS FOR HEARING**

Re: Dkt. No. 27

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE NOTICE  
OF THE FOLLOWING ADDITIONAL QUESTIONS FOR THE HEARING SCHEDULED ON  
SEPTEMBER 25, 2020, AT 9:00 a.m.:

The Court reminds the parties that it has not received the full administrative record (“AR”),  
and it will address the stipulation filed regarding the manner in which the AR will be filed at the  
conclusion of the hearing.

During the hearing, the Court requests that the parties not cite the page numbers assigned  
to a document in the administrative record (e.g. “AR 447”). Rather, the parties shall refer to the  
pin cites in the Federal Register when they reference the NPRM or in the Final Rule and they shall  
refer to specific exhibits and the page numbers used in those exhibits.

The Court also does not wish to hear argument about the proper scope of the AR or  
argument about why exhibits were or were not submitted with the parties’ briefing.

1. Defendants dispute Plaintiffs’ procedural argument that they failed to disclose the  
thinking and data behind the Final Rule. Is it Defendants’ position that their thinking is that  
USCIS’s financial situation required an increase in revenue to be able to ensure recovery of all

1 direct and indirect costs associated with adjudication and naturalization services? If so, what are  
 2 Defendants' best citations to the record to support where the data for that thinking is located?  
 3 When Defendants respond to this question, they shall cite to page citations in the record and  
 4 clearly articulate the data points in those citations that support their position.

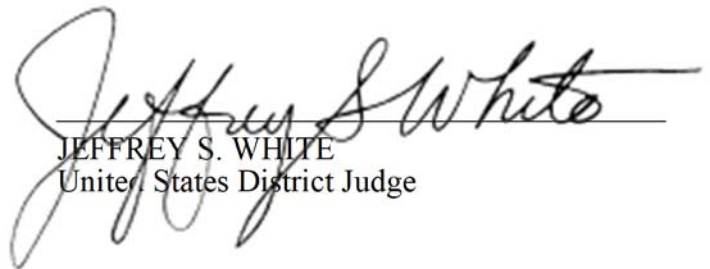
5 2. The NPRM and the Final Rule state that Defendants used the Activity-Based  
 6 Costing method. What are Plaintiffs' best arguments that those references do not establish the  
 7 method and assumptions USCIS used to promulgate the new fees?

8 3. Defendants note that the Final Rule sets a single fee for Form I-193 and state that  
 9 Customs and Border Protection ("CPB") adjudicates most filings" of those Forms. Final Rule, 85  
 10 Fed. Reg. at 46,840. Per 6 U.S.C. section 196(c), "Fees imposed for a particular service,  
 11 application, or benefit shall be deposited into the account established under subsection (a) that is  
 12 for the bureau with jurisdiction over the function to which the fee relates." Is there support in the  
 13 record for the proposition that when CBP processes a Form I-193 it is performing adjudicative  
 14 functions rather than enforcement functions?

15 4. How do Defendants respond to Plaintiffs' arguments that although the FDNS  
 16 directorate may be housed within USCIS, its officers perform investigatory and enforcement  
 17 services and that doing so runs counter to the idea that FDNS employees are providing  
 18 "adjudicatory" services? (See Reply Br. at 12:2-10.)

19 **IT IS SO ORDERED.**

20 Dated: September 24, 2020

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 22 JEFFREY S. WHITE  
 23 United States District Judge  
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